

alternatives that are technically and economically practical or feasible and that meet the purpose and need of the proposed action.

(c) *Range of alternatives.* This term includes all alternatives that would reasonably accomplish the purpose of the proposed action, that will be rigorously explored and objectively evaluated as well as other alternatives that are analyzed in any preliminary draft or preliminary final EIS.

(d) *Proposed action.* This term refers to the agency activity under consideration. It includes a non-Federal entity's planned activity that falls under a Federal agency's authority to issue permits, licenses, grants, rights-of-way, or other common Federal approvals, funding, or regulatory instruments. The proposed action:

(1) Is not necessarily, but may become, during the NEPA process, a preferred alternative or an environmentally preferable alternative; and

(2) Must be clearly described in order to proceed with NEPA analysis.

(e) *Preferred alternative.* This term refers to the alternative which the agency believes would best accomplish the purpose and need of the proposed action, while fulfilling its statutory mission and responsibilities, giving consideration to economic, environmental, technical, and other factors. It may or may not be the same as the agency's or the non-Federal entity's proposed action.

(f) *No action alternative.* This term has two interpretations. First "no action" may mean "no change" from a current management direction or level of management intensity. Second "no action" may mean "no project" in cases where a new project is proposed for construction. Regardless of the interpretation, a "no action" alternative is required to be analyzed in an EIS.

§ 46.425 Identification of the preferred alternative in an EIS.

(a) Unless another law prohibits the expression of a preference, the draft EIS should identify the bureau's preferred alternative or alternatives, if one or more exists.

(b) Unless another law prohibits the expression of a preference, the final EIS must identify the bureau's preferred alternative.

§ 46.430 Environmental review and consultation requirements.

(a) An EIS that also addresses other environmental review and consultation requirements must clearly identify and discuss all the associated analyses, studies, and surveys relied upon by the

agency as a part of that review and consultation. Also:

(1) The EIS should indicate that the associated analyses are included;

(2) The EIS must reference or include as an appendix any supporting analyses or reports; and

(3) The bureau preparing the EIS must send copies of all supporting analyses or reports to reviewing agencies as appropriate in accordance with applicable regulations or procedures.

(b) The draft EIS must list all Federal permits, licenses, or approvals that must be obtained to implement the proposal. To the extent possible and authorized by law, the environmental analyses for these related permits, licenses, and approvals should be integrated and performed concurrently. The bureau may complete the NEPA analysis before all approvals are in place.

§ 46.435 Inviting comments.

(a) A bureau must seek comment from the public as part of the NOI to prepare an EIS and notice of availability on the draft EISs;

(b) In addition to paragraph (a) of this section, a bureau must request comments from:

(1) Federal agencies;

(2) State agencies through procedures established by the Governor under E.O. 12372;

(3) Local agencies, to the extent that they include the affected local jurisdictions; and

(4) Applicant, if any, and persons or organizations who may be interested or affected.

(c) The bureau must request comments from the tribal government, unless the tribal government has designated an alternate review process, when the proposed action may affect the environment of either:

(1) Indian trust or restricted land; or

(2) Other Indian trust resources, trust assets, or tribal health and safety.

(d) A bureau does not need to delay preparation and issuance of a final EIS when any Federal, State, and local agencies, or tribal governments from which comments must be obtained or requested do not comment within the prescribed time period.

§ 46.440 Eliminating duplication with State and local procedures.

A bureau must incorporate in its regulations provisions allowing a State agency to jointly prepare an EIS, to the extent provided in 40 CFR 1506.2.

§ 46.445 Preparing a legislative EIS.

When required, the Department must ensure that a legislative EIS is included as a part of the formal transmittal of a legislative proposal to the Congress.

§ 46.450 Identifying the environmentally preferable alternative.

In accordance with the requirements of 40 CFR 1505.2, a bureau must identify the environmentally preferable alternative in the ROD. It is not necessary that the environmentally preferable alternative be selected in the ROD.

[FR Doc. E7-25484 Filed 12-31-07; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 071218860-7866-01]

RIN 0648-AW26

Pacific Halibut Fisheries; Catch Sharing Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NMFS proposes to approve and implement changes to the Pacific Halibut Catch Sharing Plan (Plan) for the International Pacific Halibut Commission's (IPHC or Commission) regulatory Area 2A off Washington, Oregon, and California (Area 2A). NMFS proposes to implement the portions of the Plan and management measures that are not implemented through the IPHC, which includes the sport fishery management measures for Area 2A. These actions are intended to enhance the conservation of Pacific halibut, to provide greater angler opportunity where available, and to protect yelloweye rockfish and other overfished groundfish species from incidental catch in the halibut fisheries.

DATES: Comments on the proposed changes to the Plan and on the proposed domestic Area 2A halibut management measures must be received no later than 5 p.m., local time on February 1, 2008.

ADDRESSES: Copies of the Plan and Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA) are available from D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115-0070. Electronic copies of the Plan, including proposed changes for 2008, and of the draft RIR/IRFA are also available at the NMFS Northwest Region website: <http://www.nwr.noaa.gov>, click on "Groundfish & Halibut."

You may submit comments, identified by RIN 0648-AW26, by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>

- **Fax:** 206-526-6736, Attn: Jamie Goen.

- **Mail:** D. Robert Lohn, Administrator, Northwest Region, NMFS, Attn: Jamie Goen, 7600 Sand Point Way NE, Seattle, WA 98115-0070.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: For further information contact Jamie Goen at 206-526-4646 or jamie.goen@noaa.gov.

SUPPLEMENTARY INFORMATION: The Northern Pacific Halibut Act (Halibut Act) of 1982, at 16 U.S.C. 773c, gives the Secretary of Commerce (Secretary) general responsibility for implementing the provisions of the Halibut Convention between the United States and Canada (Halibut Convention). It requires the Secretary to adopt regulations as may be necessary to carry out the purposes and objectives of the Halibut Convention and the Halibut Act. Section 773c of the Halibut Act authorizes the regional fishery management councils to develop regulations governing the Pacific halibut catch in their corresponding U.S. Convention waters that are in addition to, but not in conflict with, regulations of the IPHC. Each year between 1988 and 1995, the Pacific Fishery Management Council (Pacific Council) had developed a catch sharing plan in accordance with the Halibut Act to allocate the total allowable catch (TAC) of Pacific halibut between treaty Indian and non-treaty harvesters and among non-treaty commercial and sport fisheries in Area 2A.

In 1995, NMFS implemented the Pacific Council-recommended long-term Plan (60 FR 14651, March 20, 1995). In each of the intervening years between 1995 and the present, minor revisions to the Plan have been made to adjust for

the changing needs of the fisheries. The Plan allocates 35 percent of the Area 2A TAC to Washington treaty Indian tribes in Subarea 2A-1 and 65 percent to non-Indian fisheries in Area 2A. Additionally, as a result of *U.S. v. Washington (U.S., et al. v. State of Washington, et al.* Case No. 9213 Phase I, Subproceeding No. 92-1, Stipulation and Order, July 7, 1999), the Plan had required 25,000 lb (11.3 mt) dressed weight of halibut to be transferred from the non-treaty Area 2A halibut allocation to the treaty allocation in Area 2A each year for eight years from 2000 through 2007, for a total transfer of 200,000 lb (90.7 mt).

The allocation to non-Indian fisheries is divided into three shares, with the Washington sport fishery (north of the Columbia River) receiving 36.6 percent, the Oregon/California sport fishery receiving 31.7 percent, and the commercial fishery receiving 31.7 percent. The commercial fishery is further divided into a directed commercial fishery that is allocated 85 percent of the commercial allocation and an incidental catch in the salmon troll fishery that is allocated 15 percent of the commercial allocation. The directed commercial fishery in Area 2A is confined to southern Washington (south of 46°53.30' N. lat.), Oregon, and California. North of 46°53.30' N. lat. (Pt. Chehalis), the Plan allows for incidental halibut retention in the primary limited entry longline sablefish fishery when the overall Area 2A TAC is above 900,000 lb (408.2 mt). The Plan also divides the sport fisheries into six geographic subareas, each with separate allocations, seasons, and bag limits.

The Area 2A TAC will be set by the IPHC at its annual meeting on January 15-18, 2008, in Portland, OR. NMFS requests public comments on the Pacific Council's recommended modifications to the Plan and the proposed domestic fishing regulations by February 1, 2008. This allows the public the opportunity to consider the final Area 2A TAC before submitting comments on the proposed rule. The States of Washington and Oregon will conduct public workshops shortly after the IPHC meeting to obtain input on the sport season dates. After the Area 2A TAC is known and after NMFS reviews public comments and comments from the states, NMFS will issue a final rule for the Area 2A Pacific halibut fisheries concurrent with the IPHC regulations for the 2008 Pacific halibut fisheries.

Pacific Council Recommended Changes to the Plan and Domestic Fishing Regulations

Each year, the states (Washington Department of Fish and Wildlife (WDFW) and Oregon Department of Fish and Wildlife (ODFW)) and the tribes with treaty fishing rights for halibut consider whether changes to the Plan are needed or desired by their fishery participants. Fishery managers from the states hold public meetings before both the September and November Pacific Council meetings to get public input on revisions to the Plan. At the September 2007 Pacific Council meeting, NMFS and WDFW recommended several changes to the Plan, and ODFW and the tribes announced that they had no proposals for revising the Plan in 2008. Following the meeting, the states again reviewed their proposals with the public and drafted their recommended revisions for review and recommendation by the Pacific Council.

At its November 5-9, 2007, meeting in San Diego, CA, the Pacific Council considered the results of state-sponsored workshops on the proposed changes to the Plan, NMFS-proposed changes to the Plan, and public comments, and made final recommendations for modifications to the Plan as follows:

- (1) Reopen the Washington North Coast subarea June sport fishery on the first Tuesday following June 16;

- (2) Clarify that the Saturday offshore opener in the Washington North Coast subarea June sport fishery is contingent on available quota;

- (3) Provide flexibility in the date that the entire Washington North Coast subarea sport fishery reopens for one day after June 24;

- (4) Retain the opening date of May 1 for the Washington South Coast subarea primary sport fishery in 2008 and, starting in 2009, revise the opening date to May 1 if it is a Sunday, otherwise, open on the first Sunday following May 1;

- (5) Set the Washington South Coast subarea primary sport fishery as a 2-day per week fishery, open Sunday and Tuesday;

- (6) Set aside 10 percent of the Washington South Coast subarea quota for the nearshore sport fishery once the primary fishery has closed;

- (7) Set the Washington South Coast subarea nearshore sport fishery as a 4-day per week fishery, open Friday, Saturday, Sunday, and Tuesday;

- (8) Remove outdated language referring to the 25,000 lb annual tribal allocation resulting from the *U.S. v. Washington* case;

(9) Edit language referring to the number of sport subareas to clarify that there are six rather than seven; and

(10) Revise the flexible inseason management provisions for the sport fisheries to allow modification of subarea quotas in all subareas.

Proposed Changes to the Plan

NMFS is proposing to approve the Pacific Council recommendations and to implement the above-described changes by making the following changes to the Plan:

In section (b) of the Plan, Allocations, revise the first sentence of the first paragraph to remove the reference to "(1) Except as provided below under (b)(2)," to read as follows:

This Plan allocates 35 percent of the Area 2A TAC to U.S. treaty Indian tribes in the State of Washington in subarea 2A-1, and 65 percent to non-Indian fisheries in Area 2A.

In section (b) of the Plan, Allocations, remove paragraph (2).

In section (d) of the Plan, Treaty Indian Fisheries, revise the first sentence of the paragraph to read as follows:

Thirty-five percent of the Area 2A TAC is allocated to 12 treaty Indian tribes in subarea 2A-1, which includes that portion of Area 2A north of Point Chehalis, WA (46°53.30' N. lat.) and east of 125°44.00' W. long.

In section (f) of the Plan, Sport Fisheries, revise the last sentence of the introductory paragraph to read as follows:

The allocation is further divided as subquotas among six geographic subareas.

In section (f) of the Plan, Sport Fisheries, revise paragraph (1) to read as follows:

Subarea management. The sport fishery is divided into six sport fishery subareas, each having separate allocations and management measures as follows.

In section (f) of the Plan, Sport Fisheries, revise the last sentence of the first paragraph in (1)(ii) to read as follows:

The fishery will then reopen for two days on the first Tuesday and Thursday following June 16, in the following nearshore areas only:

In section (f) of the Plan, Sport Fisheries, revise the first three sentences of the second paragraph in (1)(ii) to read as follows:

If there is sufficient quota, the fishery will reopen for one day on the first Saturday following June 16 in the entire north coast subarea. If sufficient quota remains, the fishery would reopen, as a first priority, in the entire north coast

subarea for one day following June 24. If there is insufficient quota remaining to reopen the entire north coast subarea for another day, then the nearshore areas described above would reopen following June 24, up to four days per week (Thursday through Sunday), until the remaining subarea quota is projected to be taken.

In section (f) of the Plan, Sport Fisheries, revise the fourth through eighth sentences of paragraph (1)(iii) to read as follows:

The south coast subarea quota will be allocated as follows: 90 percent for the primary fishery, and 10 percent for the nearshore fishery, once the primary fishery has closed. In 2008, the fishery will open on May 1. Beginning in 2009, the fishery will open on May 1, if it is a Sunday; otherwise, the fishery will open on the first Sunday following May 1. The primary fishery will be open two days per week, Sunday and Tuesday, in all areas, except where prohibited, and the nearshore fishery will be open four days per week, Friday through Sunday and Tuesday, in the area from 47°25.00' N. lat. south to 46°58.00' N. lat. and east of 124°30.00' W. long. The primary fishery will continue until September 30, or until 90 percent of the quota is achieved, whichever is earlier.

In section (f) of the Plan, Sport Fisheries, revise paragraph (5)(ii)(E) to read as follows:

Modification of subarea quotas.

Proposed 2008 Sport Fishery Management Measures

NMFS is proposing sport fishery management measures that are necessary to implement the Plan in 2008. The 2008 TAC for Area 2A will be determined by the IPHC at its annual meeting on January 15-18, 2008, in Portland, OR. Because the 2008 TAC has not yet been determined, these proposed sport fishery management measures use the IPHC staff's preliminary 2008 Area 2A TAC recommendation of 1,000,000 lb (454 mt), which is lower than the 2007 TAC of 1,340,000 lb (608 mt). Where season dates are not indicated, those dates will be provided in the final rule, following determination of the 2008 TAC and consultation with the states and the public. In Section 25 of the annual domestic management measures, "Sport Fishing for Halibut," paragraph (4)(b) is proposed to read as follows:

* * * * *

(4) * * *

(b) The sport fishing subareas, subquotas, fishing dates, and daily bag limits are as follows, except as modified under the inseason actions in § 300.63(c). All sport fishing in Area 2A

is managed on a "port of landing" basis, whereby any halibut landed into a port counts toward the quota for the area in which that port is located, and the regulations governing the area of landing apply, regardless of the specific area of catch.

(i) The area in Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of a line extending from 48°17.30' N. lat., 124°23.70' W. long. north to 48°24.10' N. lat., 124°23.70' W. long., is not managed inseason relative to its quota. This area is managed by setting a season that is projected to result in a catch of 42,606 lb (19 mt).

(A) The fishing season in eastern Puget Sound (east of 123°49.50' W. long., Low Point) is (insert season dates) and the fishing season in western Puget Sound (west of 123°49.50' W. long., Low Point) is (insert season dates), 5 days a week (Thursday through Monday). (The final determination of the season dates will be based on the allowable harvest level and projected 2008 catch rates after the final 2008 TAC is set by the IPHC.)

(B) The daily bag limit is one halibut of any size per day per person.

(ii) The quota for landings into ports in the area off the north Washington coast, west of the line described in paragraph (4)(b)(i) of this section and north of the Queets River (47°31.70' N. lat.), is 93,243 lb (42 mt).

(A) The fishing seasons are:

(1) Commencing on May 15 and continuing 3 days a week (Tuesday, Thursday, and Saturday) until 67,135 lb (30 mt) are estimated to have been taken and the season is closed by the Commission.

(2) On June 17 and 19, the fishery will open only in the nearshore areas defined at the end of this paragraph. If there is sufficient quota, the fishery will open for one day on June 21 in the entire north coast subarea. If sufficient quota remains, the fishery would reopen, as a first priority, in the entire north coast subarea for one day following June 24. If there is insufficient quota remaining to reopen the entire north coast subarea for another day, then the nearshore areas described below would reopen following June 24, up to four days per week (Thursday-Sunday), until the overall quota of 93,243 lb (42 mt) are estimated to have been taken and the area is closed by the Commission, or until September 30, whichever is earlier. After June 19, any fishery opening will be announced on the NMFS hotline at 800-662-9825. No halibut fishing will be allowed after June 19 unless the date is announced on the NMFS hotline. The nearshore areas

for Washington's North Coast fishery are defined as follows:

(i) WDFW Marine Catch Area 4B, which is all waters west of the Sekiu River mouth, as defined by a line extending from 48°17.30' N. lat., 124°23.70' W. long. north to 48°24.10' N. lat., 124°23.70' W. long., to the Bonilla-Tatoosh line, as defined by a line connecting the light on Tatoosh Island, WA, with the light on Bonilla Point on Vancouver Island, British Columbia (at 48°35.73' N. lat., 124°43.00' W. long.) south of the International Boundary between the U.S. and Canada (at 48°29.62' N. lat., 124°43.55' W. long.), and north of the point where that line intersects with the boundary of the U.S. territorial sea.

(ii) Shoreward of the recreational halibut 30-fm boundary line, a modified line approximating the 30-fm depth contour from the Bonilla-Tatoosh line south to the Queets River. The recreational halibut 30-fm boundary line is defined by the following coordinates in the order listed:

- (1) 48°24.79' N. lat., 124°44.07' W. long.;
- (2) 48°24.80' N. lat., 124°44.74' W. long.;
- (3) 48°23.94' N. lat., 124°44.70' W. long.;
- (4) 48°23.51' N. lat., 124°45.01' W. long.;
- (5) 48°22.59' N. lat., 124°44.97' W. long.;
- (6) 48°21.75' N. lat., 124°45.26' W. long.;
- (7) 48°21.23' N. lat., 124°47.78' W. long.;
- (8) 48°20.32' N. lat., 124°49.53' W. long.;
- (9) 48°16.72' N. lat., 124°51.58' W. long.;
- (10) 48°10.00' N. lat., 124°52.58' W. long.;
- (11) 48°05.63' N. lat., 124°52.91' W. long.;
- (12) 47°56.25' N. lat., 124°52.57' W. long.;
- (13) 47°40.28' N. lat., 124°40.07' W. long.; and
- (14) 47°31.70' N. lat., 124°37.03' W. long.

(B) The daily bag limit is one halibut of any size per day per person.

(C) Recreational fishing for groundfish and halibut is prohibited within the North Coast Recreational Yelloweye Rockfish Conservation Area (YRCA). It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the North Coast Recreational YRCA. A vessel fishing in the North Coast Recreational YRCA may not be in possession of any halibut. Recreational vessels may transit through the North

Coast Recreational YRCA with or without halibut on board. The North Coast Recreational YRCA is a C-shaped area off the northern Washington coast intended to protect yelloweye rockfish. The North Coast Recreational YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

- (1) 48°18.00' N. lat.; 125°18.00' W. long.;
 - (2) 48°18.00' N. lat.; 124°59.00' W. long.;
 - (3) 48°11.00' N. lat.; 124°59.00' W. long.;
 - (4) 48°11.00' N. lat.; 125°11.00' W. long.;
 - (5) 48°04.00' N. lat.; 125°11.00' W. long.;
 - (6) 48°04.00' N. lat.; 124°59.00' W. long.;
 - (7) 48°00.00' N. lat.; 124°59.00' W. long.;
 - (8) 48°00.00' N. lat.; 125°18.00' W. long.;
- and connecting back to 48°18.00' N. lat.; 125°18.00' W. long.

(iii) The quota for landings into ports in the area between the Queets River, WA (47°31.70' N. lat.) and Leadbetter Point, WA (46°38.17' N. lat.), is 27,952 lb (13 mt).

(A) The fishing season commences on May 1 and continues 2 days a week (Sunday and Tuesday) in all waters (the primary fishery), except that in the area from 47°25.00' N. lat. south to 46°58.00' N. lat. and east of 124°30.00' W. long. (the Washington South coast, northern nearshore area), the fishing season commences on May 1 and continues 4 days a week (Friday, Saturday, Sunday, and Tuesday). The south coast subarea quota will be allocated as follows: 25,156 lb (11 mt), 90 percent, for the primary fishery, and 2,795 lb (1.3 mt), 10 percent, for the northern nearshore fishery, once the primary fishery has closed. The primary fishery will continue from May 1 until 25,156 lb (11 mt) are estimated to have been taken and the season is closed by the Commission, or until September 30, whichever is earlier. Subsequent to this closure, if there is insufficient quota remaining to reopen the primary fishery for another fishing day, then any remaining quota may be used to accommodate incidental catch in the northern nearshore area from 47°25.00' N. lat. south to 46°58.00' N. lat. and east of 124°30.00' W. long. on Fridays and Saturdays, until 27,952 lb (13 mt) is projected to be taken and the fishery is closed by the Commission. If the fishery is closed prior to September 30, and there is insufficient quota remaining to reopen the northern nearshore area for

another fishing day, then any remaining quota may be transferred inseason to another Washington coastal subarea by NMFS via an update to the recreational halibut hotline.

(B) The daily bag limit is one halibut of any size per day per person.

(C) Recreational fishing for groundfish and halibut is prohibited within the South Coast Recreational YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the South Coast Recreational YRCA. A vessel fishing in the South Coast Recreational YRCA may not be in possession of any halibut. Recreational vessels may transit through the South Coast Recreational YRCA with or without halibut on board. The South Coast Recreational YRCA is an area off the southern Washington coast intended to protect yelloweye rockfish. The South Coast Recreational YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

- (1) 46°58.00' N. lat., 124°48.00' W. long.;
 - (2) 46°55.00' N. lat., 124°48.00' W. long.;
 - (3) 46°55.00' N. lat., 124°49.00' W. long.;
 - (4) 46°58.00' N. lat., 124°49.00' W. long.;
- and connecting back to 46°58.00' N. lat., 124°48.00' W. long.

(iv) The quota for landings into ports in the area between Leadbetter Point, WA (46°38.17' N. lat.) and Cape Falcon, OR (45°46.00' N. lat.), is 14,402 lb (6.5 mt).

(A) The fishing season commences on May 1, and continues 7 days a week until 10,081 lb (4.6 mt) are estimated to have been taken and the season is closed by the Commission or until July 20, whichever is earlier. The fishery will reopen on August 1 and continue 3 days a week (Friday through Sunday) until 14,402 lb (6.5 mt) have been taken and the season is closed by the Commission, or until September 30, whichever is earlier. Subsequent to this closure, if there is insufficient quota remaining in the Columbia River subarea for another fishing day, then any remaining quota may be transferred inseason to another Washington and/or Oregon subarea by NMFS via an update to the recreational halibut hotline. Any remaining quota would be transferred to each state in proportion to its contribution.

(B) The daily bag limit is one halibut of any size per day per person.

(C) Pacific Coast groundfish may not be taken and retained, possessed or landed, except sablefish and Pacific cod when allowed by Pacific Coast

groundfish regulations, if halibut are on board the vessel.

(v) The quota for landings into ports in the area off Oregon between Cape Falcon (45°46.00' N. lat.) and Humbug Mountain (42°40.50' N. lat.), is 189,566 lb (86 mt).

(A) The fishing seasons are:

(1) The first season (the "inside 40-fm" fishery) commences May 1 and continues 7 days a week through October 31, in the area shoreward of a boundary line approximating the 40-fm (73-m) depth contour, or until the sub-quota for the central Oregon "inside 40-fm" fishery (15,165 lb (6.9 mt)) or any inseason revised subquota is estimated to have been taken and the season is closed by the Commission, whichever is earlier. The boundary line approximating the 40-fm (73-m) depth contour between 45°46.00' N. lat. and 42°40.50' N. lat. is defined by straight lines connecting all of the following points in the order stated:

- (1) 45°46.00' N. lat., 124°04.49' W. long.;
- (2) 45°44.34' N. lat., 124°05.09' W. long.;
- (3) 45°40.64' N. lat., 124°04.90' W. long.;
- (4) 45°33.00' N. lat., 124°04.46' W. long.;
- (5) 45°32.27' N. lat., 124°04.74' W. long.;
- (6) 45°29.26' N. lat., 124°04.22' W. long.;
- (7) 45°20.25' N. lat., 124°04.67' W. long.;
- (8) 45°19.99' N. lat., 124°04.62' W. long.;
- (9) 45°17.50' N. lat., 124°04.91' W. long.;
- (10) 45°11.29' N. lat., 124°05.19' W. long.;
- (11) 45°05.79' N. lat., 124°05.40' W. long.;
- (12) 45°05.07' N. lat., 124°05.93' W. long.;
- (13) 45°03.83' N. lat., 124°06.47' W. long.;
- (14) 45°01.70' N. lat., 124°06.53' W. long.;
- (15) 44°58.75' N. lat., 124°07.14' W. long.;
- (16) 44°51.28' N. lat., 124°10.21' W. long.;
- (17) 44°49.49' N. lat., 124°10.89' W. long.;
- (18) 44°44.96' N. lat., 124°14.39' W. long.;
- (19) 44°43.44' N. lat., 124°14.78' W. long.;
- (20) 44°42.27' N. lat., 124°13.81' W. long.;
- (21) 44°41.68' N. lat., 124°15.38' W. long.;
- (22) 44°34.87' N. lat., 124°15.80' W. long.;

- (23) 44°33.74' N. lat., 124°14.43' W. long.;
- (24) 44°27.66' N. lat., 124°16.99' W. long.;
- (25) 44°19.13' N. lat., 124°19.22' W. long.;
- (26) 44°15.35' N. lat., 124°17.37' W. long.;
- (27) 44°14.38' N. lat., 124°17.78' W. long.;
- (28) 44°12.80' N. lat., 124°17.18' W. long.;
- (29) 44°09.23' N. lat., 124°15.96' W. long.;
- (30) 44°08.38' N. lat., 124°16.80' W. long.;
- (31) 44°08.30' N. lat., 124°16.75' W. long.;
- (32) 44°01.18' N. lat., 124°15.42' W. long.;
- (33) 43°51.60' N. lat., 124°14.68' W. long.;
- (34) 43°42.66' N. lat., 124°15.46' W. long.;
- (35) 43°40.49' N. lat., 124°15.74' W. long.;
- (36) 43°38.77' N. lat., 124°15.64' W. long.;
- (37) 43°34.52' N. lat., 124°16.73' W. long.;
- (38) 43°28.82' N. lat., 124°19.52' W. long.;
- (39) 43°23.91' N. lat., 124°24.28' W. long.;
- (40) 43°20.83' N. lat., 124°26.63' W. long.;
- (41) 43°17.96' N. lat., 124°28.81' W. long.;
- (42) 43°16.75' N. lat., 124°28.42' W. long.;
- (43) 43°13.98' N. lat., 124°31.99' W. long.;
- (44) 43°13.71' N. lat., 124°33.25' W. long.;
- (45) 43°12.26' N. lat., 124°34.16' W. long.;
- (46) 43°10.96' N. lat., 124°32.34' W. long.;
- (47) 43°05.65' N. lat., 124°31.52' W. long.;
- (48) 42°59.66' N. lat., 124°32.58' W. long.;
- (49) 42°54.97' N. lat., 124°36.99' W. long.;
- (50) 42°53.81' N. lat., 124°38.58' W. long.;
- (51) 42°50.00' N. lat., 124°39.68' W. long.;
- (52) 42°49.14' N. lat., 124°39.92' W. long.;
- (53) 42°46.47' N. lat., 124°38.65' W. long.;
- (54) 42°45.60' N. lat., 124°39.04' W. long.;
- (55) 42°44.79' N. lat., 124°37.96' W. long.;
- (56) 42°45.00' N. lat., 124°36.39' W. long.;
- (57) 42°44.14' N. lat., 124°35.16' W. long.;

(58) 42°42.15' N. lat., 124°32.82' W. long.; and

(59) 42°40.50' N. lat., 124°31.98' W. long.;

(2) The second season (spring season), which is for the "all-depth" fishery, is open on (*insert dates beginning with May 8 or 9*). The projected catch for this season is 130,801 lb (59 mt). If sufficient unharvested catch remains for additional fishing days, the season will re-open. Dependent on the amount of unharvested catch available, the potential season re-opening dates will be: (*insert dates, no later than July 31*). If NMFS decides inseason to allow fishing on any of these re-opening dates, notice of the re-opening will be announced on the NMFS hotline (206) 526-6667 or (800) 662-9825. No halibut fishing will be allowed on the re-opening dates unless the date is announced on the NMFS hotline. (The final determination of the season dates will be based on the allowable harvest level and projected 2008 catch rates and on input from a public meeting held by ODFW after the 2008 TAC is set by the IPhC.)

(3) If sufficient unharvested catch remains, the third season (summer season), which is for the "all-depth" fishery, will be open on (*insert dates beginning with August 1*), or until the combined spring season and summer season quotas in the area between Cape Falcon and Humbug Mountain, OR, totaling 174,401 lb (79 mt), are estimated to have been taken and the area is closed by the Commission, or October 31, whichever is earlier. NMFS will announce on the NMFS hotline in July whether the fishery will re-open for the summer season in August. No halibut fishing will be allowed in the summer season fishery unless the dates are announced on the NMFS hotline. Additional fishing days may be opened if a certain amount of quota remains after August 3 and August 31. If after August 3, greater than or equal to 60,000 lb (27.2 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, the fishery may re-open every Friday through Sunday, beginning August 8 - 10, and ending October 31. If after August 31, greater than or equal to 30,000 lb (13.6 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, and the fishery is not already open every Friday through Sunday, the fishery may re-open every Friday through Sunday, beginning September 5 - 7, and ending October 31. After August 31, the bag limit may be increased to two fish of any size per person, per day. NMFS will announce on the NMFS hotline whether the summer all-depth fishery will be open

on such additional fishing days, what days the fishery will be open and what the bag limit is.

(B) The daily bag limit is one halibut of any size per day per person, unless otherwise specified. NMFS will announce on the NMFS hotline any bag limit changes.

(C) During days open to all-depth halibut fishing, no Pacific Coast groundfish may be taken and retained, possessed or landed, except sablefish when allowed by Pacific Coast groundfish regulations, if halibut are on board the vessel.

(D) When the all-depth halibut fishery is closed and halibut fishing is permitted only shoreward of a boundary line approximating the 40–fm (73–m) depth contour, halibut possession and retention by vessels operating seaward of a boundary line approximating the 40–fm (73–m) depth contour is prohibited.

(E) Recreational fishing for groundfish and halibut is prohibited within the Stonewall Bank YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the Stonewall Bank YRCA. A vessel fishing in the Stonewall Bank YRCA may not be in possession of any halibut. Recreational vessels may transit through the Stonewall Bank YRCA with or without halibut on board. The Stonewall Bank YRCA is an area off central Oregon, near Stonewall Bank, intended to protect yelloweye rockfish. The Stonewall Bank YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

- (1) 44°37.46 N. lat.; 124°24.92 W. long.;
 - (2) 44°37.46 N. lat.; 124°23.63 W. long.;
 - (3) 44°28.71 N. lat.; 124°21.80 W. long.;
 - (4) 44°28.71 N. lat.; 124°24.10 W. long.;
 - (5) 44°31.42 N. lat.; 124°25.47 W. long.;
- and connecting back to 44°37.46 N. lat.; 124°24.92 W. long.

(vi) The area south of Humbug Mountain, Oregon (42°40.50' N. lat.) and off the California coast is not managed inseason relative to its quota. This area is managed on a season that is projected to result in a catch of 6,182 lb (2.8 mt).

(A) The fishing season will commence on May 1 and continue 7 days a week until October 31.

(B) The daily bag limit is one halibut of any size per day per person.

Flexible Inseason Management for Sport Fisheries

Language on flexible inseason management for sport fisheries at 50 CFR 300.63 (c)(2)(v) is proposed to be revised in the same manner as language being revised in section (f)(5)(ii)(E) of the Plan. More specifically, the phrase “north of Cape Falcon, OR” is removed from the sentence so that it reads, “modification of subarea quotas.” As mentioned in paragraphs (c)(1)(iii) and (iv) of 50 CFR 300.63, unused quota can be moved inseason both north of Cape Falcon, OR, and south of Leadbetter Point, WA, to modify quota in Area 2A sport fisheries if sport fishery subareas are not projected to utilize their respective quotas. Therefore, this revision clarifies the flexible inseason management provisions so that all subarea quotas may be modified inseason, not just subarea quotas north of Cape Falcon.

Classification

This action has been determined to be not significant for purposes of Executive Order 12866.

NMFS has prepared an RIR/IRFA on the proposed changes to the Plan and annual domestic Area 2A halibut management measures. Copies of these documents are available from NMFS (see **ADDRESSES**).

NMFS prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. The IRFA is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows:

A fish-harvesting business is considered a “small” business by the Small Business Administration (SBA) if it has annual receipts not in excess of \$4.0 million. For related fish-processing businesses, a small business is one that employs 500 or fewer persons. For wholesale businesses, a small business is one that employs not more than 100 people. For marinas and charter/party boats, a small business is one with annual receipts not in excess of \$6.5 million. All of the businesses that would be affected by this action are considered small businesses under Small Business Administration guidance.

The proposed changes to the Plan, which allocates the catch of Pacific halibut among users in Washington, Oregon and California, would: (1) reopen the Washington North Coast subarea June sport fishery on the first Tuesday following June 16; (2) clarify

that the Saturday offshore opener in the Washington North Coast subarea June sport fishery is contingent on available quota; (3) provide flexibility in the date that the entire Washington North Coast subarea sport fishery reopens for one day after June 24; (4) retain the opening date of May 1 for the Washington South Coast subarea primary sport fishery in 2008 and, starting in 2009, revise the opening date to May 1 if it is a Sunday, otherwise, open on the first Sunday following May 1; (5) set the Washington South Coast subarea primary sport fishery as a 2-day per week fishery, open Sunday and Tuesday; (6) set aside 10 percent of the Washington South Coast subarea quota for the nearshore sport fishery once the primary fishery has closed; (7) set the Washington South Coast subarea nearshore sport fishery as a 4-day per week fishery, open Friday, Saturday, Sunday, and Tuesday; (8) remove outdated language referring to the 25,000 lb annual tribal allocation resulting from the U.S. v. Washington case; (9) edit language referring to the number of sport subareas to clarify that there are six rather than seven; and (10) revise the flexible inseason management provisions for the sport fisheries to allow modification of subarea quotas in all subareas. NMFS also proposes to implement the portions of the Plan and management measures that are not implemented through the IPHC, which includes the sport fishery management measures for Area 2A. These actions are intended to enhance the conservation of Pacific halibut, to provide greater angler opportunity where available, and to protect yelloweye rockfish and other overfished groundfish species from incidental catch in the halibut fisheries.

As mentioned in the preamble, WDFW held state meetings and crafted alternatives to adjust management of the sport halibut fisheries in their state. These alternatives were then narrowed by the state and brought to the Council at the Council’s September and November 2007 meetings. Generally, by the time the alternatives reach the Council, and because they have been through the state public review process, they are narrowed down into the proposed action and status quo. There were no alternatives that could have similarly improved angler enjoyment of and participation in the fisheries while simultaneously protecting halibut and co-occurring groundfish species from overharvest.

In 1995, NMFS implemented the Plan, when the TAC was 520,000 pounds (236 mt). In each of the intervening years between 1995 and the present, minor revisions to the Plan have been made to adjust for the changing needs of the

fisheries, even though the TAC reached levels of over 1,000,000 pounds (454 mt), with a peak of 1,480,000 pounds (671 mt) in 2004. Since 2004, there has been very little change in the total allowable catch and sector allocations. In 2006, the Area 2A Halibut TAC set by the IPHC was 1.38 million pounds (626 mt) and for 2007 it was 1.34 million pounds (608 mt). However, preliminary IPHC staff recommendations for the 2008 TAC are lower than the TAC levels since 2001. The preliminary 2008 Area 2A TAC of 1.00 million pounds (454 mt) is lower than previous years due to the IPHC's new stock assessment information, revised selectivity assumptions and revised harvest policy. This is a 25-percent decline from the 2007 TAC. As this is a sizable decline, there may be changes to the regulations described in this proposed rule resulting from IPHC recommendations at their annual meeting in January 2008, or as an outcome of the state public workshops held after the IPHC meeting. Expectations are that any proposed changes in the regulations will be ones that, in implementing the amended Plan, seek to mitigate the adverse impacts of the decline of the TAC in order to maximize available fishing opportunities and benefits to fishing communities.

Six hundred fifty-nine vessels were issued IPHC licenses to retain halibut in 2007. IPHC issues licenses for: the directed commercial fishery in Area 2A, including licenses issued to retain halibut caught incidentally in the primary sablefish fishery (225 licenses in 2007); incidental halibut caught in the salmon troll fishery (292 licenses in 2007); and the charterboat fleet (142 licenses in 2007). No vessel may participate in more than one of these three fisheries per year. Individual recreational anglers and private boats are the only sectors that are not required to have an IPHC license to retain halibut.

Specific data on the economics of halibut charter operations is unavailable. However, in January 2004, the Pacific States Marine Fisheries Commission (PSMFC) completed a report on the overall West Coast charterboat fleet. In surveying charterboat vessels concerning their operations in 2000, the PSMFC estimated that there were about 315 charterboat vessels in operation off Washington and Oregon. In 2000, IPHC licensed 130 vessels to fish in the halibut sport charter fishery. Comparing the total charterboat fleet to the 130 and 142 IPHC licenses in 2000 and 2007, respectively, approximately 41 to 45

percent of the charterboat fleet could participate in the halibut fishery. The PSMFC has developed preliminary estimates of the annual revenues earned by this fleet and they vary by size class of the vessels and home state. Small charterboat vessels range from 15 to 30 ft (4.572 to 9.144 m), and typically carry 5 to 6 passengers. Medium charterboat vessels range from 31 to 49 ft (9.44 to 14.93 m) in length and typically carry 19 to 20 passengers. (Neither state has large vessels of greater than 49 ft (14.93 m) in their fleet.) Average annual revenues from all types of recreational fishing, whalewatching and other activities ranged from \$7,000 for small Oregon vessels to \$131,000 for medium Washington vessels. Estimates from the RIR show the recreational halibut fishery generated approximately \$2.5 million in personal income to West Coast communities, while the non-tribal commercial halibut fishery generated approximately \$2.2 million in income impacts. Because these estimated impacts for the entire halibut fishery overall are less than the SBA criteria for individual businesses, these data confirm that charterboat and commercial halibut vessels qualify as small entities under the Regulatory Flexibility Act (RFA).

These changes are authorized under the Pacific Halibut Act, implementing regulations at 50 CFR 300.60 through 300.65, and the Pacific Council process of annually evaluating the utility and effectiveness of Area 2A Pacific halibut management under the Plan. Given the TAC, the proposed sport management measures implement the Plan by managing the recreational fishery to meet the differing fishery needs of the various areas along the coast according to the Plan's objectives. The measures will be very similar to last year's management measures. The changes to the Plan and domestic management measures are minor changes and are intended to help prolong the halibut season, provide increased recreational harvest opportunities, or clarify sport fishery management for fishermen and managers. There are no large entities involved in the halibut fisheries; therefore, none of these changes to the Plan and domestic management measures will have a disproportionate negative effect on small entities versus large entities.

These changes do not include any reporting or recordkeeping requirements. These changes will also not duplicate, overlap or conflict with other laws or regulations. Consequently, these changes to the Plan and annual domestic Area 2A halibut management measures are not expected to meet any

of the RFA tests of having a "significant" economic impact on a "substantial number" of small entities. Nonetheless, NMFS has prepared an IRFA. Through this proposed rule, NMFS is requesting comments on these conclusions.

Pursuant to Executive Order 13175, the Secretary recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. At section 302(b)(5), the Magnuson-Stevens Fishery Conservation and Management Act establishes a seat on the Pacific Council for a representative of an Indian tribe with federally recognized fishing rights from California, Oregon, Washington, or Idaho.

The U.S. Government formally recognizes that the 12 Washington Tribes have treaty rights to fish for Pacific halibut. In general terms, the quantification of those rights is 50 percent of the harvestable surplus of Pacific halibut available in the tribes' usual and accustomed (U and A) fishing areas (described at 50 CFR 300.64). Each of the treaty tribes has the discretion to administer their fisheries and to establish their own policies to achieve program objectives. Accordingly, tribal allocations and regulations, including the proposed changes to the Plan, have been developed in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

List of Subjects in 50 CFR Part 300

Fishing, Fisheries, and Indian fisheries.

Dated: December 27, 2007

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 300 is proposed to be amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

1. The authority citation for part 300 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*

2. In § 300.63, paragraph (c)(2)(v) is revised to read as follows:

§ 300.63 Catch sharing plan and domestic management measures in Area 2A.

- * * * * *
- (c) * * *
- (2) * * *
- (v) Modification of subarea quotas.
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